

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Amendment of the Commission's Rules to) WT Docket No. 04-435
Facilitate the Use of Cellular Telephones)
and Other Wireless Devices Aboard)
Aircraft)

**COMMENTS OF
THE DEPARTMENT OF JUSTICE, INCLUDING THE FEDERAL BUREAU OF
INVESTIGATION, AND THE DEPARTMENT OF HOMELAND SECURITY**

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SUMMARY

The Commission's proposal to modify and relax its current ban on the airborne use of personal/passenger-owned wireless telephones and other devices — including those used for broadband applications — represents a significant change in the Commission's approach to the use of such devices aboard aircraft. The proposal raises not only regulatory and technical/operational issues, but also important public safety and national security issues.

Although the United States Department of Justice ("DOJ"), including the Federal Bureau of Investigation ("FBI"), and the Department of Homeland Security ("DHS")¹ (collectively, "the Departments") support the Commission's efforts to make additional communications options available to Americans, and to protect and promote public safety and homeland security by increasing airborne communications options available for public safety and homeland security personnel, the Departments take this opportunity to identify for the Commission various public safety and national security-related concerns that stem from the Commission's proposal. In light of the concerns associated with the Commission's proposal, the Departments believe the Commission's inquiry into the appropriateness of lifting its current ban on in-flight personal wireless

¹ The Department of Homeland Security, includes, *inter alia*, the following agencies with equities in this proposed rulemaking: the Bureau of Immigration and Customs Enforcement ("ICE"), including the Federal Air Marshals Service ("FAMS"), the Transportation Security Administration ("TSA"), the Bureau of Customs and Border Protection ("CBP"), the United States Secret Service ("USSS"), and the United States Coast Guard ("USCG").

telephone use must consider public safety and national security as well as commercial equities by expressly including an analysis of the potential impact that the Commission's proposal and resulting actions could have on public safety and national security.

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Amendment of the Commission's Rules to) WT Docket No. 04-435
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Other Wireless Devices Aboard Aircraft)

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The United States Department of Justice (“DOJ”), including the Federal Bureau of Investigation (“FBI”), and the Department of Homeland Security (“DHS”)² (collectively, “the Departments”) hereby submit their comments on the Commission’s Notice of Proposed Rulemaking in the above-captioned docket (hereinafter “*Notice*”).³

The Commission's rules currently prohibit the airborne use of personal/passenger-owned wireless telephones onboard aircraft.⁴ In the *Notice*, the

² The Department of Homeland Security, includes, *inter alia*, the following agencies with equities in this proposed rulemaking: the Bureau of Immigration and Customs Enforcement ("ICE"), including the Federal Air Marshals Service ("FAMS"), the Transportation Security Administration ("TSA"), the Bureau of Customs and Border Protection ("CBP"), the United States Secret Service ("USSS"), and the United States Coast Guard ("USCG").

³ *In the Matter of Amendment of the Commission's Rules to Facilitate the Use of Cellular Telephones and Other Wireless Devices Aboard Aircraft*, Notice of Proposed Rulemaking, WT Docket No. 04-435, FCC 04-288 (rel. Feb. 15, 2005).

⁴ See 47 C.F.R. § 22.925 (prohibiting the airborne use of personal 800 MHz cellular telephones on commercial and private aircraft); 47 C.F.R. § 90.423 (restricting the use of Specialized Mobile Radio (SMR) handsets while airborne in certain circumstances).

Commission proposes to modify and relax this ban in order to facilitate the use of personal/passenger-owned wireless telephones and other devices — including those used for broadband applications — on aircraft in appropriate circumstances.

The Departments support the Commission's efforts to (1) make additional communications options available to Americans and (2) protect and promote public safety and homeland security by increasing airborne communications options available for public safety and homeland security personnel, including a greater ability to engage in direct air-to-ground communications in an emergency. However, the Commission's proposal represents a significant change in the Commission's approach to the use of personal wireless telephones aboard aircraft and — in addition to numerous regulatory and technical/operational issues — raises important public safety and national security issues relating to such use. Thus, the Departments take this opportunity to identify for the Commission various national security-related concerns that stem from this proposal.

Although the Commission's rules technically cover only "cellular" or SMR-based wireless telephones, the Commission's ban effectively prohibits the in-flight use of wireless phones operating in the Personal Communications Service ("PCS") and Wireless Communications Service ("WCS") because of the separate Federal Aviation Administration's ban on the use of wireless telephones and other portable electronic devices on aircraft. See 14 C.F.R. § 91.21; "Use of Portable Electronic Devices Aboard Aircraft," Advisory Circular, AC No. 91.21-1A at ¶ 1 (Oct. 2, 2000).

In the wake of the events of September 11, 2001, both the Nation as a whole and those who are tasked with ensuring its safety have increased their focus on homeland security. The Departments each play a critical part in ensuring the overall security of our Nation and its citizens. The Commission also plays an important part in preserving and promoting homeland security. In fact, homeland security is included among the goals listed in the Commission's current five-year strategic plan.⁵ Consistent with the Communications Act and the Commission's strategic goal of preserving and promoting homeland security, the Commission's inquiry into the appropriateness of lifting its current ban on in-flight personal wireless telephone use must consider public safety/national security as well as commercial equities by expressly including an analysis of the potential adverse impact that the Commission's proposal and resulting actions could have on public safety and national security.

⁵ See *Federal Communications Commission Strategic Plan FY 2003 – FY 2008* at 5, 7, 18-20, 23 ("FY 2003 – FY 2005 Strategic Plan"). As former Chairman Powell's statement in the FY 2003 – FY 2005 Strategic Plan makes clear, "[w]ith the events of September 11 it has become imperative that the communications community come together to determine [its] role in ensuring homeland security . . . [w]e must be aggressive in ensuring that our policies maximize the many efforts being made to make our Nation safe." See FY 2003 – FY 2005 Strategic Plan at Back Cover.

Even if homeland security goals were not expressly stated in the Commission's strategic plan, the Communications Act of 1934, as amended ("Communications Act"), mandates homeland security as a Commission obligation in its statement that the Commission was created for the purpose of ". . . the national defense . . . [and] promoting the safety of life and property . . ." See 47 U.S.C. § 151.

I. CALEA IN AN AIR-TO-GROUND COMMUNICATIONS CONTEXT

Lawfully-authorized electronic surveillance is an invaluable and necessary tool for federal, state, and local law enforcement in their fight against terrorists and other criminals.⁶ In 1994, Congress passed the Communications Assistance for Law Enforcement Act ("CALEA").⁷ CALEA's purpose is to maintain law enforcement's ability to conduct court-ordered electronic surveillance despite changing telecommunications technologies by (1) further defining the telecommunications industry's obligation to provision electronic surveillance capabilities when served with a court order or other legal process, and (2) requiring industry to develop and deploy CALEA intercept solutions in their networks. CALEA is a technology-neutral statute⁸ that applies to all "telecommunications carriers" — including those using platforms such as wireline, wireless, cable, satellite, and electric or other utility.⁹

⁶ "Electronic surveillance" as used herein refers to the interception of call content and/or call-identifying information pursuant to lawful process, such as wiretap, pen register, and trap and trace orders.

⁷ Pub. L. No. 103-414, 108 Stat. 4279 (1994); 47 U.S.C. § 1001 *et seq.*

⁸ "CALEA, like the Communications Act, is technology neutral. Thus, a carrier's choice of technology when offering common carrier services does not change its obligations under CALEA." *In The Matter of Communications Assistance for Law Enforcement Act*, Second Report and Order, 15 FCC Rcd 7105, 7120 n. 69 (1999) ("CALEA Second Report and Order").

⁹ See CALEA Legislative History, H.R. Rep. No. 103-827(I), reprinted in 1994 U.S.C.C.A.N. 3489, 3500 ("CALEA Legislative History").

In the *Notice*, the Commission proposes to allow passengers to use their own wireless telephones aboard aircraft while in-flight. Under this scenario, a call from the passenger's personal wireless telephone would connect to an onboard phone system (such as a "pico" cell) that would then relay the call to the ground and connect it to the passenger's terrestrial wireless carrier (or a different terrestrial wireless carrier pursuant to a roaming arrangement). As both the statutory text of CALEA and the Commission's own pronouncements make clear, wireless carriers are "telecommunications carriers" for purposes of CALEA.¹⁰ Thus, the wireless carriers implicated by this proceeding are "telecommunications carriers" that must comply with the requirements of CALEA.¹¹ Accordingly, such wireless carriers clearly would be required to comply with CALEA

¹⁰ See 47 U.S.C. § 1001(8)(B)(i) ("[t]he term 'telecommunications carrier' . . . includes . . . a person or entity engaged in providing commercial mobile service (as defined in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d))"); CALEA Legislative History at 3500 (the definition of telecommunications carrier in CALEA includes cellular carriers, providers of personal communications services (PCS), and any other common carrier that offers wireless services for hire to the public); CALEA *Second Report and Order* at 7114 -7117.

¹¹ The Commission recently reiterated that Commercial Mobile Radio Service (CMRS) providers are subject to a variety of obligations under the Communications Act and the Commission's rules, including CALEA. See *In the Matter of Wireless Operations in the 3650-3700 MHz Band; Rules for Wireless Broadband Services in the 3650-3700 MHz Band; Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band; Amendment of the Commission's Rules With Regard to the 3650-3700 MHz Government Transfer Band*, Report and Order and Memorandum Opinion and Order, ET Docket Nos. 04-151, 02-380, and 98-237 and WT Docket No. 05-96; FCC 05-56; 2005 FCC LEXIS 1655 ¶ 37 (2005) (" . . . if a wireless licensee provides Commercial Mobile Radio Services (CMRS), which makes the licensee a common carrier, other obligations attach as a result of [the licensee's] decision [to provide CMRS] under Title II of the Communications Act or the Commission's rules (e.g., universal service, CALEA)").

with respect to both terrestrial and air-to-ground communications carried on their networks, and the Departments urge the Commission to affirm this obligation in any statement or decision issued in this proceeding.

Although CALEA applies to wireless carriers in the context of air-to-ground communications, the issue of how CALEA should function in this context must be carefully examined by the Commission.

CALEA requires that a telecommunications carrier ensure that its equipment, facilities, or services that provide a customer or subscriber with the ability to originate, terminate, or direct communications are capable of expeditiously isolating and enabling the government, pursuant to a court order or other lawful authorization, to intercept all wire and electronic communication (i.e., call content), and to access call-identifying information that is reasonably available to the carrier.¹² CALEA itself does not prescribe a timeframe within which an intercept order must be provisioned; however, the Commission has previously stated that carriers should promptly provision such orders and comply with any other relevant statutes related to carriers' duty to assist law

¹² See 47 U.S.C. §§ 1002(a)(1), 1002(a)(2). It should be noted that national security operations in an air-to-ground communications context will require that the unobtrusive interception of the target's (e.g., terrorist's or hijacker's) communications begin immediately upon provisioning (e.g. surveillance activation) and that collection of content not be delayed until the next target communication setup. This will require interception to be activated "mid call," without having initial call set-up information.

enforcement in performing interceptions.¹³ The absence of a specific timing requirement and a lack of clear guidance as to what constitutes “promptly” provisioning an intercept order has led to debate and some degree of uncertainty in traditional terrestrial interception circumstances. There is no room for such uncertainty in the air-to-ground context where delays of minutes and seconds could make the difference between life and death for passengers and crew aloft and those on the ground below. Given the nature of both air travel and air-to-ground communications, any historical, terrestrially-based interpretation of the term “promptly” is, in the Departments’ view, not adequate in this context. There is a short window of opportunity in which action can be taken to thwart a suicidal terrorist hijacking or remedy other crisis situations onboard an aircraft, and law enforcement needs to maximize its ability to respond to these potentially lethal situations.¹⁴ Thus, defining or interpreting “promptly” in a way that is meaningful relative to this unique context is

¹³ See *In the Matter of Communications Assistance for Law Enforcement Act*, Report and Order, 14 FCC Rcd 4151, 4163 ¶ 26 (1999).

¹⁴ Indeed, with respect to three of the flights that were hijacked by terrorists on September 11, 2001, the amount of time that elapsed between the determination that each aircraft had been hijacked and when each plane crashed ranged from 12 to 27 minutes. See *The 9/11 Commission Report* (released July 22, 2004) at 5-10 (the FAA’s Boston Air Traffic Control Center learned of the hijacking of American Airlines Flight 11 just before 8:25 a.m. and the flight crashed into the North Tower of the World Trade Center at 8:46 a.m. (21 minutes); awareness that United Flight 175 had been hijacked occurred at approximately 8:51 a.m. and the flight crashed into the South Tower of the World Trade Center at 9:03 a.m. (12 minutes); suspicion that American Airline Flight 77 had been hijacked occurred at 9:00 a.m., the hijacking of Flight 77 was definitely known just before 9:10 a.m., and the flight crashed into the Pentagon at 9:37 a.m. (27 minutes)).

critical. Accordingly, the Departments request that the Commission specify that, in the context of an air-to-ground intercept, the CALEA term "promptly" be defined as "forthwith, but in no circumstance more than 10 minutes" from the moment of notification to the telecommunications carrier of lawful authority to intercept or otherwise conduct lawful electronic surveillance to the moment of real-time transmission to law enforcement or other authorized government agents.¹⁵

The Departments also request that the Commission require that any wireless telecommunications capability to or from an aircraft operating in United States airspace utilize mobile switching centers ("MSCs") located within the United States' borders only and not MSCs located along the border in neighboring countries.¹⁶

II. NON-CALEA OPERATIONAL CAPABILITIES

The uniqueness of service to and from an aircraft in flight presents the possibility that terrorists and other criminals could use air-to-ground communications systems to

¹⁵ Having the ability to immediately provision an intercept is most critical in the air-to-ground context, where every moment matters. As history has shown, crisis situations typically strike without advance warning and there is often little or no lead or "ramp up" time. For this reason, a carrier's system must be in "pre-ready" condition so that carriers are in a position to react in an immediate and effective manner in such situations.

¹⁶ Likewise, to the extent that any telecommunications capability to or from an aircraft relies upon a satellite-based delivery method (e.g. satellite band downlink), the Commission should require that the telecommunications capability utilize ground stations located within the United States' borders only and not those located along the border in neighboring countries.

coordinate an attack (e.g., a hijacking).¹⁷ For example, the use of personal wireless telephones onboard aircraft could potentially facilitate a coordinated attack between (1) a person on the aircraft and a person on the ground, (2) persons traveling on different aircraft, and/or (3) persons traveling on the same aircraft located in different sections of the cabin, who could communicate with one another using their personal wireless telephones.¹⁸ In the event that such a coordinated attack is carried out, the inability of law enforcement or United States government entities to communicate with the aircraft (whether it be federal law enforcement officers on the flight, the crew, or a hijacker or

¹⁷ Flight attendants and other members of the flying public have also expressed concern that cell phone use could enable terrorists to coordinate a plan of attack more effectively. *See e.g.*, Comments of American Airline Flight Attendant Joyce Berngard; Comments of Flight Attendant Mary Frances Knod; Comments of John D. Bush at ¶¶ 4-5; Comments of Mark Wehrwein; Comments of Nancy Eskau; Comments of Joan MacVicar; Comments of Karen O'Donnell; Comments of Connie Moreno; Comments of Marilyn Begor; Comments of David Gregoli.

¹⁸ As documented in the 9/11 Commission Report, the hijackers/terrorists involved in the September 11, 2001 attacks utilized existing telecommunications options from within the terminals at Boston's Logan Airport to communicate and coordinate the planned attacks. *See The 9/11 Commission Report* at 1, 451 n. 3 (noting that while checking in for American Airlines Flight 11, hijacker Mohammed Atta reportedly received a call on his cell phone from fellow hijacker Marwan al Shehhi, which was placed by Shehhi from a payphone located in Terminal C of Logan Airport between the screening checkpoint and the boarding gate for United Airlines Flight 175). Although the communications were effectuated on the ground using existing communications facilities, it is not difficult to conclude what additional/further coordination could have occurred if other options – such as in-flight cell phone use – had been available.

terrorist) in any effective manner,¹⁹ means that capabilities in addition to those required by CALEA will be necessary.²⁰

For example, once a determination has been made that an airborne aircraft represents a threat to public safety and/or national security, the identification of both the destination of all communications originated from wireless telephones on such an aircraft and the origin of communications directed or terminated to a wireless telephone located on that aircraft becomes critically important for law enforcement and can influence time-sensitive decisions about how to respond to the threat. Accordingly, this truly unique operational situation compels the Departments to request that the Commission require that all wireless/air-to-ground carriers/pico cell providers (1) create and maintain the capability to record (and do record) at some central, land-based storage facility located within the United States, at a minimum, non-content call records relating to all calls processed to and from wireless telephones onboard aircraft operating within United States air space, international air space contiguous or attendant to United States air space, and international air space used enroute to or from United

¹⁹ Unlike traditional terrestrial interception scenarios in which time may similarly be of the essence, in the air-to-ground context, law enforcement cannot typically avail itself of the operational option of physically surrounding and penetrating an aircraft while in flight.

²⁰ The Departments emphasize that they consider these additional capabilities to be separate and distinct from, and not required by, CALEA.

States air space or destinations, and (2) provide law enforcement with immediate access to such records upon lawful request.²¹

Other operational capabilities that the Departments request include that the carrier/pico cell provider be able to:

- (1) Expeditiously identify the verified location/seat number (if available) or relative location (i.e. forward or aft) of the user of a given personal wireless telephone on a given aircraft which has a communication in progress;²²
- (2) Expeditiously identify all personal wireless telephone users on a given aircraft who have communications in progress to or with a personal wireless

²¹ Upon acquisition of any necessary lawful process (e.g. court order, search warrant, etc.) records of air-to-ground calls subject to the requirement of immediate law enforcement access should include, at a minimum, all calls processed during each domestic U.S. flight and each U.S. inbound and outbound international flight. These records of the air-to-ground carrier/pico cell provider need only be maintained for a 24-hour period following the termination of the flight in order to afford law enforcement a reasonable opportunity to secure lawful process to compel disclosure of the records before their destruction by the carrier/pico cell provider. The Departments note that, as common carriers, air-to-ground service providers are already required to maintain toll records for a period of at least 18 months under the Commission's existing rules, *see* 47 C.F.R. § 42.6, but the additional requirement sought for air-to-ground providers would include non-toll call records as well.

²² Location information is invaluable to quickly establishing the identity of terrorists/hijackers aboard an aircraft. As confirmed in *The 9/11 Commission Report*, the information relayed by the flight attendants on American Airlines Flight 11 to authorities on the ground about the hijackers (including their seat assignments) and the events taking place onboard the aircraft was critical to enabling authorities to establish the hijackers' identities. *See The 9/11 Commission Report* at 5.

telephone user onboard another aircraft that are serviced by the same or an associated provider;

- (3) Expeditiously interrupt a communication in progress on a given aircraft;
- (4) Expeditiously conference law enforcement with or to a communication in progress on a given aircraft;
- (5) Expeditiously redirect all communications destined to or originating from a given aircraft;
- (6) Expeditiously terminate the ability of all personal wireless telephone users on a given aircraft to send or receive communications without impairing the ability of authorized personnel to communicate;
- (7) Provide the ability to transmit emergency law enforcement/public safety information to airborne and terrestrial resources, as appropriate; and
- (8) Provide a dedicated service or reserve bandwidth to support the transmission and reception of emergency communications information to and from aircraft security elements, independent of passenger use;
- (9) Assure the technology used is compatible with Wireless Priority Service to enable National Security/Emergency Preparedness (NS/EP) users connectivity in emergency situations.

III. POSSIBLE INCREASED RISK OF THE USE OF RADIO-CONTROLLED IMPROVISED EXPLOSIVE DEVICES AS A RESULT OF CONNECTIVITY TO AND FROM AIRCRAFT

The Commission's proposal would allow for connectivity from aircraft to the ground and vice versa. Although the potential for terrorists and other criminals to use communications devices as remote-controlled improvised explosive devices ("RCIEDs") already exists, the risk of RCIED use may, at least in theory, be increased as a result of the ability of aircraft passengers to now effectively use personally-owned wireless telephones and similar communications devices in-flight.²³ The ability to turn on a wireless telephone or device located onboard an aircraft and have that telephone gain access (i.e. connect) to wireless service or reach a communications carrier's network — which was not previously possible in a reliable way — presents the possibility that either a passenger or someone on the ground could *reliably* remotely activate a wireless telephone or device in-flight and use that device as an RCIED.

²³ The Departments acknowledge that the risk to aircraft posed by RCIEDs exists separate and apart from the existence of communications connectivity to aircraft. Mitigation of the RCIED threat occurs substantially, in the first instance, through advanced screening techniques that would prevent the device from coming onboard an aircraft. While it is acknowledged that, historically, far simpler RCIEDs (i.e., those not requiring remote connectivity) have been used to successfully attack aircraft, the Departments believe that the new possibilities generated by airborne passenger connectivity must be recognized. It is imperative that the Commission examine the full range of new possibilities and take affirmative steps to try to mitigate these possibilities.

The Commission should adopt mechanisms designed to mitigate this potential increased risk. The Departments, therefore, request that the Commission, at a minimum, require that:

- (1) users be authenticated to both their provider's network and the pico cell provider and register their location on the aircraft before being able to use their personal wireless telephone in flight;²⁴
- (2) there be strong network security controls required of communications equipment onboard aircraft; and
- (3) carriers and service providers (including pico cell providers) design onboard communications systems in such a way that they will deny network access and connectivity to any device that is stored in the cargo hull.²⁵

²⁴ As discussed in note 19, *supra*, location information is invaluable to quickly establishing the identity of terrorists or hijackers onboard an aircraft. Although the Departments acknowledge the expertise of providers to best engineer these solutions, some providers have suggested that authentication security capabilities could be accomplished, for example, through positive response systems, such as a user login requirement, or via an interface between the pico cell provider and the airline to determine the passengers on the airline's manifest that are authorized to use personal cell phones in-flight and their seat locations.

²⁵ Some providers have suggested to the Departments that this capability may be simply accomplished, for example, by the installation of a separate antenna array in the cargo hull. The Departments would look to the expertise of the Commission and the providers to devise these solutions.

IV. INTERFERENCE ISSUES

In-flight wireless telephone transmissions may cause interference with aircraft navigation and communications equipment that could affect air safety and security.²⁶ The Departments recognize that the Federal Aviation Administration ("FAA") prohibits the use of personal electronic devices on airplanes unless the operator of the aircraft has determined that the device will not cause interference with the navigation or communication system of the aircraft. The Departments support the Commission's assessment that the use of wireless telephones will remain subject to the rules and policies of the FAA and aircraft operators and that any change in the Commission's rules will not affect the applicability of the FAA's rules.

V. WIRELESS IN-FLIGHT SERVICE AND ITS POTENTIAL IMPACT ON PASSENGER CONDUCT

The Departments note that a significant portion of the public comments filed in this proceeding to date have expressed concern about the effect that passengers' ability to use personal wireless phones in-flight will have on the overall atmosphere of flights and the conduct of passengers. In particular, the Departments note other commenters' concerns that the unrestricted use of personal wireless telephones by multiple

²⁶ In addition to any radio frequency interference that might result from in-flight wireless telephone transmissions, passenger use of power supplies or circuitry onboard aircraft which are used to simultaneously transmit data or intelligence related to aircraft operations or communications may also represent an interference risk.

passengers on flights could result in an increase in “air rage” incidents among passengers.²⁷ The Departments believe that the conduct of passengers making use of in-flight personal wireless phones could have serious implications for Federal law enforcement onboard aircraft whose status is unknown to fellow passengers. The first and overriding priority of Federal law enforcement onboard aircraft is to ensure the safety of the aircraft and the flight. Affirmative measures should be adopted to diminish the probability that law enforcement’s on-board mission will either be complicated or compromised unnecessarily by disputes concerning in-flight cell phone

²⁷ According to a recent poll sponsored by the National Consumers League and the Communications Workers of America, three out of four travelers said that the use of cell phones on planes would increase the likelihood of air rage. *See In Flight Calls Could Cause Turbulence, Opponents Say*, Washington Post, Page E-1 (Apr. 8, 2005). The comments filed in this proceeding tend to confirm that view, and flight attendants and other members of the flying public have expressed similar concerns about these issues. *See e.g.*, Comments of the Professional Flight Attendants Association at 1; Comments of the Association of Flight Attendants – CWA, AFL-CIO at 2 (expressing concern that even the possibility of regulatory acceptance of in-flight cell phone use will lead to unacceptable levels of unauthorized use, resulting in compromises to operational safety and security via an increase in passenger/crew distractions, misunderstandings, and conflicts); Comments of American Airline Flight Attendant Joyce Bergard (“[t]he introduction of [personal] cell phone use in the cabin will not only increase tension among passengers, it will compromise flight attendants’ ability to maintain order in an emergency”); Comments of Flight Attendant Mary Frances Knod; Comments of Flight Attendant A. Aiwohi (flying on a full plane with passengers talking on personal cell phones would create chaos, irate passengers, and an unsafe environment); Comments of Flight Attendant Georgia Leonard (in-flight use of cell phones would incite more incidents of air rage); Comments of Susan Campau at ¶ 3; Comments of John D. Bush at ¶ 3 (conflicts resulting from rude cell phone users are certain to occur, and if these conflicts disrupt or distract a flight it becomes a safety and security issue); Comments of Ruth Kinkead (permitting personal cell phones to be used in-flight is asking for trouble and air rage).

use. Accordingly, the Departments suggest that the Commission, in consultation with the airlines, should establish rules and/or policies concerning in-flight personal wireless phone use and related conduct to minimize any potential for the increase in air rage incidents which could result from unrestricted use of personal wireless telephones on flights.

CONCLUSION

For the reasons set forth above, the Commission should carefully examine public safety and national security-related concerns before modifying, relaxing, or lifting its current ban on the airborne use of personal/passenger-owned wireless telephones onboard aircraft.

Respectfully submitted,

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